

Appln No. 10/795,896
Amdt date October 2, 2006
Reply to Office action of May 3, 2006

REMARKS/ARGUMENTS

Pending Claims:

Claims 1-23 are pending, with claims 1, 2, 4, 9, 10, 13, 20 and 23 being amended. The amendment to claim 2 is to further clarify the subject matter. The amendments to claims 9, 10 and 20 are to correct typographical errors and the amendment to claim 4 is to attend to making a term consistent in the claims. The nature of the amendments to independent claims 1, 13 and 23 is discussed further below.

Rejections of the Claims under 35 U.S.C. §102(b):

The Examiner rejects claims 1-6, 10-11, 13-17, 21 and 23 under 35 U.S.C. §102(b) as being anticipated by U.S. patent no. 4,881,529 to Santos.

The Examiner states that Santos teaches every claimed feature of claim 1 including a brace body comprising a flexible material with a plurality of tunnels (perforated leather material) capable of being stretched to have a larger internal diameter, and at least one elongated insert.

Applicant has carefully reviewed the Santos reference and respectfully submits that based on the amendments to independent claims 1, 13 and 23, that all of the rejected claims should be allowable thereover. The independent claims are amended to further clarify the nature of the brace body, and now claim a “brace body that is preformed to conform closely to the neck of a user comprising flexible soft and pliable material, namely, silicon rubber or other soft and pliable plastics and rubbers that are formed into a unitary body having a smooth and generally flat inner wall...” The brace body of the Santos reference is not formed of such material but as the Examiner acknowledges, comprises perforated leather that overwraps flexible plastic tubing. Thus, besides not being formed of the recited “soft and pliable material, namely, silicon rubber or other soft and pliable plastics and rubbers,” the neck support collar of Santos also does not have a “generally flat inner wall.” Thus, Applicant respectfully submits that independent claims 1, 13, and 23, and all claims dependent thereon are not anticipated by Santos. Applicant further submits that neither would claims 1 and 12 be obvious over Santos.

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The Examiner next rejects claims 1 and 12 under 35 U.S.C. §102(b) as being anticipated by U.S. patent no. 3,964,474 to Fox. The Examiner states that Fox teaches every claimed feature of claims 1 and 12 including a brace body comprising a flexible material with at least one tunnel 20 capable of being stretched to have a larger internal diameter, and at least one elongated insert 10, a chin cup 19.

Applicant has carefully reviewed the Fox reference and respectfully submits that based on the amendments to independent claim 1, the rejected claims should be allowable. Independent claim 1 is amended to further clarify the nature of the brace body, and now claim a “brace body that is preformed to conform closely to the neck of a user comprising flexible soft and pliable material, namely, silicon rubber or other soft and pliable plastics and rubbers that are formed into a unitary body having a smooth and generally flat inner wall...” The brace body of the Fox reference is not formed of such material, but instead is formed of a “plastic foam member 10 curved into an annual shape...The plastic foam may constitute Styrofoam or equivalent resilient plastic foam material. As shown, at least one band 13 of resilient plastic material different from the plastic foam is biased into a desired annual shape..” [See Col. 2, lines 34-41.] “An additional band of resilient plastic material is shown at 17 secured to and disposed about the outside surface of the plastic foam member 10...” [See Col. 2, lines 54-56.] A “sock-like stretchable fabric material 20 formed into an annular or toroidal shape and terminating in at least one open end” is provided. “The fabric material is stretchable in such a manner that it may be slipped over one of the ends 11 or 12 of the plastic foam member 10 of FIG.1 to completely cover the collar, the draw strings 21 and 22 then being pulled to close off the ends of the fabric.” [See Col. 3, lines 1-11.]

Applicant respectfully submits that that sock-like stretchable fabric is not at all comparable to the brace body of claim 1. Reconsideration of this ground of rejection is requested. Applicant further submits that neither would claims 1 and 12 be obvious over Fox.

The Examiner then rejects claims 13 and 22 under 35 U.S.C. §102(b) as being anticipated by U.S. patent no. 5,211,623 to Sarkozi. The Examiner states that Sarkozi teaches a brace body comprising a flexible material with a plurality of tunnels (figure 9) capable of being stretched to

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have a larger internal diameter, and a plurality of inserts, two engaging members 21, 22, 23, 24, and a chin cup (note figure 7.)

Applicant has carefully reviewed the Sarkozi reference and respectfully submits that based on the amendments to independent claim 13, the rejected claims should be allowable. Independent claims 13 and 23 are amended to further clarify the nature of the brace body, and now claim a “brace body that is preformed to conform closely to the neck of a user comprising flexible soft and pliable material, namely, silicon rubber or other soft and pliable plastics and rubbers that are formed into a unitary body having a smooth and generally flat inner wall...” The brace body of the Sarkozi reference is not “preformed to conform closely to the neck of a user”, and is not “formed into a unitary body having a smooth and generally flat inner wall...” but instead the “[t]he covering materials 27 of the outer sleeve 14 are selected to achieve a range of flexibility sufficient to house and accommodate different sizes and numbers of tubular elements and permit their rotational adjustment. At the same time, the covering materials 27 are manufactured with sufficient rigidity to prevent significant displacement of coincident alignment between the upper and lower tubular elements with respect to each other.” [See Col. 4, lines 15-24.]

Reconsideration of this ground of rejection is therefore requested. Applicant further submits that besides not being anticipated, neither would claims 13 and 23 be obvious over Sarkozi.

Rejection of the Claims under 35 U.S.C. §103(a):

The Examiner rejects claims 7-9, 18-20 under 35 U.S.C. §103(a) as being unpatentable over Santos in view of U.S. patent no. 5,755,044 to Veylupek and U.S. patent no. 2,911,697 to Henderson.

Applicant has discussed Santos above and its failure to disclose a brace body “that is preformed to conform closely to the neck of a user comprising soft and pliable material, namely, silicon rubber or other soft and pliable plastics and rubbers that are formed into a unitary body having a smooth and generally flat inner wall...” Applicant therefore respectfully submits that

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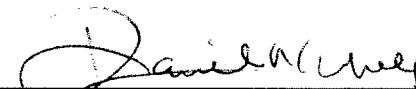
even if Santos were to be combined with the teachings of Veylupek and Henderson, the invention of claims 7-9, 18-20 would not be taught or suggested since the combination would still lack the claimed features of the brace body. Accordingly, this ground of rejection is traversed, and reversal of this ground of rejection is solicited.

Conclusion:

Based on the foregoing, allowance of claims 1-23 is solicited. If the Examiner has any questions or alternative suggestions, a telephone call to the undersigned would be appreciated.

Respectfully submitted,
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